

REMARKS

The Applicant respectfully requests further examination and consideration in view of the above amendments and the arguments set forth fully below. Prior to this Office Action, Claims 1-9 were pending in this application. Figures 1-4 were objected to and Claims 1-9 were rejected. The Applicant has submitted new formal drawings, Figures 1-4 and has amended Claims 1, 4 and 7. Accordingly, Claims 1-9 are currently pending in this application.

Objection to Drawings

Within the Office Action, the drawings were objected to. In particular, Figure 1 was objected to for not being labeled as "Prior Art". In addition, Figures 3, 6 and 9 were objected to for not showing the gripping feature. The Applicant submits new formal drawings, Figures 1-4. Figure 1 is now labeled as "Prior Art" and Figures 2-4 include the gripping feature. Thus, the Applicant contends that the drawings are now correct and the application is in condition for allowance.

Rejection Under 35 U.S.C. § 102

Within the Office Action, Claims 1-2, 4-5 and 7-8 were rejected under § 102(b) as being anticipated by GB 2,233,141 to Walker (hereinafter Walker). The Applicant respectfully traverses.

Walker teaches a plectrum for playing a stringed musical instrument comprising a device whereby the plectrum may be removably stowed, as by being clipped, on a string of an instrument while not in use. The device is a blind channel or slot extending into the body of the plectrum from a section of the body adapted to be gripped by a player. The slot tapers to a notch which is of a diameter to receive a string, the entry of the notch being of less width than the diameter of the string, such that the plectrum does not fall off the string when clipped. Since the diameter of the string is very small, the plectrum taught in Walker is limited to receive a string and nothing having a dimension larger than the diameter of a string. In addition, since the plectrum in Walker is configured to prevent the plectrum from falling off the string when clipped thereto, the slot has a dimension smaller than the diameter of the string.

In contrast to Walker, the present invention has a slot which leads to an aperture large enough to receive a variety of items, including but not limited to a bag which is preferably twisted. Since a bag is larger than the diameter of a string, the aperture in the present plectrum

has a dimension larger than the diameter of a string. In addition, for the plectrum of the present invention to receive a bag, the bag must pass through the slot. Accordingly, the slot has a dimension larger than the diameter of string, otherwise the bag cannot be received within the aperture. Walker does not teach that the aperture has a dimension large enough to receive a bag, because the aperture is of a diameter to receive a string. In fact, Walker teaches away from the present invention, because the slot tapers to a dimension smaller than the diameter of the string, such that the string is adequately received and secured within the pick.

Amended Claim 1 is directed to a pick having a substantially planar body surrounded by an edge, the pick comprising an aperture penetrating the planar body and a slot in communication between the aperture and a portion of the edge, the slot having a dimension larger than a diameter of a string. As stated above, Walker teaches away from the present invention, because the slot in Walker has a dimension smaller than the diameter of the string. Accordingly, amended Claim 1 is distinguishable from Walker and is in a condition for allowance.

Amended Claim 4 is directed to a substantially planar pick for picking a string, the substantially planar pick having a body, a pointed end and a rounded end positioned opposite of the pointed end, the pick having an aperture located substantially near a center of the body and extending therethrough, the pick having a slot configured to pass from the rounded end to the aperture, wherein the slot is in communication with the aperture and has a dimension larger than a diameter of the string. As stated above, Walker teaches away from the present invention, because the slot in Walker has a dimension smaller than the diameter of the string. Accordingly, amended Claim 4 is distinguishable from Walker and is in a condition for allowance.

Amended Claim 7 is directed to a pick having a body and a pointed end, the pick having an aperture located substantially near a center of the body and a slot configured to extend from the aperture to an edge of the body, wherein both the aperture and the slot pass through the body of the pick, the aperture having a dimension configured to receive an item larger than a diameter of a string. As stated above, the dimension of an item, such as a twisted bag, to be received in the present plectrum is larger than the diameter of a string. Since Walker only teaches a pick for receiving a string, amended Claim 7 is distinguishable over Walker and accordingly in a condition for allowance.

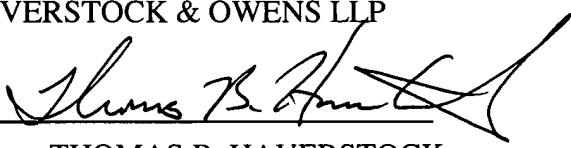
Claims 2, 5 and 8 are also rejected under Walker, however Claims 2, 5 and 8 are dependent on an allowable independent Claims 1, 4 and 7, respectively. As stated above, Claims 1, 4 and 7 are in a condition for allowance. Accordingly, Claims 2, 5 and 8 are also in a condition for allowance.

Rejection Under 35 U.S.C. § 103

Within the Office Action, Claims 3, 6 and 9 are rejected under § 103(a) as being unpatentable over Walker in view of U.S. Patent 1,254,577 to Carpenter et al. The Applicant respectfully traverses. Claims 3, 6 and 9 are dependent on an allowable independent Claims 1, 4 and 7, respectively. As stated above, Claims 1, 4 and 7 are in a condition for allowance. Accordingly, Claims 3, 6 and 9 are also in a condition for allowance in view of Walker and Carpenter et al., individually or in combination.

For the reasons given above, Applicant respectfully submit that the Claims 1-9 are in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

By: 

THOMAS B. HAVERSTOCK
Reg. No.: 32,571
Attorney for Applicant

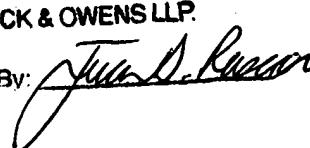
Dated: 2-5-03

CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington D.C. 20231

HAVERSTOCK & OWENS LLP.

- 4 -

Date: 2-5-03 By: 

Version with markings to show changes made.

IN THE CLAIMS:

1. (Amended) A pick having a substantially planar body surrounded by an edge, the pick comprising an aperture penetrating the planar body and a slot in communication between the aperture and a portion of the edge, the slot having a dimension larger than a diameter of a string.

4. (Amended) A substantially planar pick for picking a string, the substantially planar pick having a body, a pointed end and a rounded end positioned opposite of the pointed end, the pick having an aperture located substantially near a center of the body and extending therethrough, the pick having a slot configured to pass from the rounded end to the aperture, wherein the slot is in communication with the aperture and has a dimension larger than a diameter of the string.

7. (Amended) A pick having a body and a pointed end, the pick having an aperture located substantially near a center of the body and a slot configured to extend from the aperture to an edge of the body, wherein both the aperture and the slot pass through the body of the pick, the aperture having a dimension configured to receive an item larger than a diameter of a string.